

FILED 2005 JUL 14 13:54 BMOORE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Crim. No. 04-60046-HO

Plaintiff,

ORDER

v.

EMILIANO BELTRAN MORA,

Defendant.

On February 22, 2005, the court sentenced defendant to concurrent terms of 46-months imprisonment and 3-years supervised release. On April 17, 2006, defendant filed a document styled "MOTION FOR TIME REDUCTION BY AN INMATE UNDER 28 USCA § 2255 MOTION."

Discussion

Under the heading "POINTS AND AUTHORITIES," defendant's motion states,

1. Equal rights Protection: V, VI, VII, and XIV Amendment. A person should not be discriminated

against regardless of race, religion, color, or nationality, etc.

2. A U.S.A. citizen is entitled to one (1) year reduction of sentence through a drug program during incarceration.

Motion at 1. Defendant does not address these claims in the memorandum attached to his motion. Instead, he argues that imposition of a term of supervised release violates the doctrine of separation of powers and subjects him to double jeopardy based on judicial fact-finding.

Defendant waived his right to challenge the length of his sentence under 28 U.S.C. § 2255. Gov't ex. 1. Defendant filed his motion outside the one-year limitations period of Section 2255. The limitations period commenced on or about March 25, 2005, when the time for filing a direct appeal expired. Cf. Clay v. United States, 537 U.S. 522, 527-28 (2003) (after unsuccessful direct appeal, limitations period commenced upon the expiration of time for filing petition for writ of certiorari).

"[S]upervised release is imposed as part of the sentence authorized by the fact of conviction and requires no judicial fact-finding . . ." United States v. Huerta-Pimental, 445 F.3d 1220, 1221 (9th Cir. 2006). A challenge to the manner in which
///

///

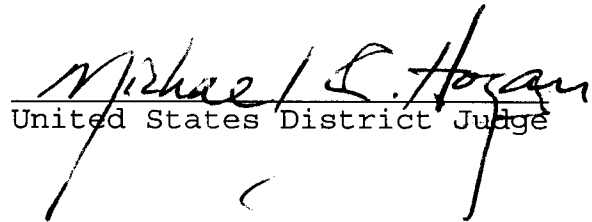
the Bureau of Prisons implements 18 U.S.C. § 3621(e) is not cognizable by Section 2255 motion.

Conclusion

Based on the foregoing, defendant's Section 2255 motion [#37] is denied.

IT IS SO ORDERED.

DATED this 14th day of July, 2006.


United States District Judge